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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,724	11/13/2003	David W. Freet	93214.036	2060

7590

02/01/2006

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EXAMINER

FOX, CHARLES A

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 02/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/713,724	<b>Applicant(s)</b> FREET ET AL.	
	<b>Examiner</b> Charles A. Fox	<b>Art Unit</b> 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>20031113,20040729</u> . | 6) <input type="checkbox"/> Other: ____  |

***Claim Objections***

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not). In this case claim 21 has not been presented in the originally filed claims. Misnumbered claims 22-28 been renumbered 21-27. Further the dependency of renumbered claims 22-25 and 27 has been reduced by one, otherwise many of the claims would have been dependent upon themselves. Applicant is required to submit a properly numbered set of claims in response to this action. Failure to do so will render any response noncompliant.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 15 and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is indefinite as to what a correct direction is. If the device is moving a load which becomes unstable during lifting the perceived correct direction would be to lower the device. However the device can only move in predetermined steps which can not be changed by the operator. As such it is not clear how the device knows when the correct direction changes. Rewording the claim so that it moves in a predetermined direction will render this rejection moot. In the art rejections

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below the device is being treated as moving in a predefined direction. ***Claim Rejections***

**- 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-0, and 16-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Williams et al. Regarding claims 1,6 and 16 Williams et al. US 6,726,435 discloses a device for a vehicle comprising:

a lift with a first telescoping member(16), coupled to said vehicle within a protected area;

a second telescopic member (24) attached to said first telescopic member;

a tool (12) coupled to said second telescopic member and movable along two orthogonal axes of motion defined by the telescopic members.

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Regarding claim 2 Williams et al. further disclose the device as being mounted on the floor of the vehicle.

Regarding claims 3 and 17 Williams et al. also disclose the tool as being a platform adapted to receive a personal mobility vehicle, commonly referred to as a scooter.

Regarding claims 4,5 and 18 Williams et al. further disclose accessing the platform via ramps (20,22) located on opposite sides of said platform.

Regarding claims 7,8,19 and 20 Williams et al. also disclose the two orthogonal axes of motion have one horizontal axis and one vertical axis.

In regards to claim 9 Williams et al. further discloses that the device is fully enclosed within the vehicle when both telescopic members are in the retracted position.

Regarding claims 10 and 21 Williams et al. further teach at least one of the telescopic members has at least two nested slides.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-14 and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams et al. as applied to claims 10 and 21 above, and further in view of Walkden. Williams et al. teach the limitations of claims 10 and 21 as above,

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they do not teach any particular structure to the telescopic members. Walkden US 5,795,125 teaches a telescopic device comprising:

- a first slide member (22) with rollers (70) thereon;

- said rollers being mounted on each lateral side of said slide;

- said slides also have a block (72) thereon for engaging a channel on a side opposite the rollers;

- a second nested slide (24) said channels on opposite sides thereof;

- said channels enclosing said rollers and blocks to provide a telescopic action;

- wherein a block on either side of the slide is located between the two rollers on that respective side;

wherein said blocks stabilize the motion of the slide. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Williams et al. with a telescopic assembly as taught by Walkden in order to allow the slides to move easily past one another while maintaining the alignment of said slides.

Claims 15 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams et al. Williams et al. further teaches their device as having:

- a first drive motor (44) for horizontal movement of the device;

- a second drive motor (26) for vertical movement of the device;

- controls for activation of said first and second motors. While Williams et al. do not teach a control circuit with a switch, they are inherent in this type of system as there would be no way to stop or start the system without a switch and an associated control

circuit, as such one of ordinary skill in the art would have contemplated a control circuit and a switch as being part of the device taught by Williams et al.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Williams et al. as applied to claim 26 above, and further in view of Ringdahl et al. Williams teaches the limitations of claim 26 as above, they do not teach using a microprocessor to control their device. Ringdahl et al. US 6,357,992 teaches a wheel chair lift comprising:

- a plurality of positions for the lift device;

- a plurality of limit switches for determining the real time position of the lift device;

- a microprocessor for coordination of the limit switches output to enable or disable control switches such that the device only moves in preselected directions at any point of its deployment. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Williams et al. with a microprocessor as taught by Ringdahl et al. in order to allow the device to move only in directions that have been previously determined to be safe.


The prior art made of record and not relied upon, but considered pertinent to applicant's disclosure is: Loos 1971, Nelson 1990, Johns 1993 and Cooper 2002.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 571-272-6923. The examiner can normally be reached between 7:00-4:00 Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached at 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 1-26-06  
Charles A. Fox  
Examiner  
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